

**The Operation and Effect
of the International
Boycott Provisions of the
Internal Revenue Code**

Fifth Annual Report

Department of the Treasury
February 1991

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The Operation and Effect of the International Boycott Provisions of the Internal Revenue Code

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Department of the Treasury
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DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

February 5, 1991

The Honorable Dan Rostenkowski
Chairman
Committee on Ways and Means
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Section 1067 of Public Law 94-455, the "Tax Reform Act of 1976", provides that for each calendar year, "the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate", setting forth an analysis of the international boycott provisions of the Internal Revenue Code.

Pursuant to that section, I hereby submit the fifth report entitled, "The Operation and Effect of the International Boycott Provisions of the Internal Revenue Code".

A similar letter is being sent to Senator Lloyd Bentsen, Chairman of the Committee on Finance.

Sincerely,

Kenneth W. Gideon
Assistant Secretary
(Tax Policy)

Enclosure



DEPARTMENT OF THE TREASURY
WASHINGTON

ASSISTANT SECRETARY

February 5, 1991

The Honorable Lloyd Bentsen
Chairman
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Section 1067 of Public Law 94-455, the "Tax Reform Act of 1976", provides that for each calendar year, "the Secretary shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate", setting forth an analysis of the international boycott provisions of the Internal Revenue Code.

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Sincerely,

Kenneth W. Gideon
Assistant Secretary
(Tax Policy)

Enclosure

**SCHEDULE A
(Form 5713)**

(Rev. January 1986)

Department of the Treasury
Internal Revenue Service

**Computation of the International
Boycott Factor (Section 999(c)(1))**

*(To be completed only by persons not computing loss of tax benefits by the
specifically attributable taxes and income method on Schedule B (Form 5713))*

OMB No. 1545-0216
Expires 10-31-88

▶ **Attach to Form 5713.**

▶ **See instructions on back.**

Name _____ Taxpayer identifying number _____

Name of country being boycotted (check one)

☐ **Israel** ☐ **Other (identify) ▶**

Name of country (1)	Purchases, sales, and payroll attributable to boycotting operations, by operation		
	Boycott purchases (2)	Boycott sales (3)	Boycott payroll (4)
a			
b			
c			
d			
e			
f			
g			
h			
i			
j			
k			
l			
m			
n			
o			
Totals			

1 Numerator of boycott factor (add totals of columns (2), (3), and (4))

2 Denominator of boycott factor

a Total purchases from countries other than United States

b Total sales to or from countries other than United States

c Total payroll paid or accrued for services performed in countries other than United States

d Total of lines 2a, b, and c

3 International boycott factor (divide line 1 by line 2d) Enter here and on Schedule C (Form 5713) (see instructions) ▶

If you are involved in more than one boycott, use a separate Schedule A for each boycott and attach to Form 5713

General Instructions

(References are to the Internal Revenue Code.)

A. Purpose.—Complete Schedule A (Form 5713) if you cooperated with or participated in an international boycott and use the international boycott factor to figure the loss of tax benefits. If you do not use the international boycott factor for this purpose, you must specifically attribute taxes and income on Schedule B (Form 5713).

B. Who Must File.—Anyone who cooperates with or participates in an international boycott must file either this form or Schedule B (Form 5713) to figure the loss of tax benefits. One act of cooperation or participation creates the presumption that you cooperate with or participate in the boycott unless you rebut the presumption as explained in instruction C. The presumption applies to all your operations and those of each member of any controlled groups (defined in section 993(a)(3)) to which you belong, in each country that helps carry out the boycott.

C. Boycott Operations.—All your operations in a boycotting country are considered to be boycott operations, unless you rebut the presumption of cooperating with or participating in the boycott, as explained below. In addition, your operations that are not in a boycotting country are boycott operations if they are connected to your cooperation with or participation in the boycott.

You can rebut the presumption of cooperating with or participating in a boycott for a particular operation by demonstrating that that operation is separate from any cooperation with or participation in an international boycott. The presumption applies only to operations in countries that carry out the boycott, so you do not need to rebut the presumption for operations that are related to those countries, but that take place outside them.

D. International Boycott Factor.—Your international boycott factor reflects boycott purchases, boycott sales, and boycott payroll.

1. Controlled Groups.—All members of a controlled group

generally share one international boycott factor, which reflects all their purchases, sales, and payroll. If you, however, belong to two or more controlled groups, your international boycott factor will reflect the purchases, sales, and payroll of all the controlled groups to which you belong.

2. Partnerships and Trusts.—You are deemed to have a prorated share of the purchases, sales, and payroll of each partnership in which you are a partner and of each trust of which you are treated as the owner under section 671. Thus, your international boycott factor may also reflect purchases, sales, and payroll of partnerships and trusts.

Specific Instructions

Compute a separate boycott factor and fill out a separate schedule for each international boycott with which you cooperate or participate. Include your own operations and, if applicable, the operations of partnerships, trusts, and members of your controlled group.

To decide for what years you should report purchases, sales, and payroll for partnerships, trusts, and controlled groups, see the specific instructions for questions 7-13 of Form 5713.

Partnerships.—For a partnership, complete only lines a through o, the totals of columns (2), (3), and (4), and line 2. Give this information to all partners so they can compute their own international boycott factor.

Column (1).—For each boycott operation enter the name of the country to which your international boycott operation relates. For example, if you have an operation in Country Z, which is not a boycotting country, and the operation relates to Country X, which is a boycotting country, enter the name of Country X. The Secretary maintains a list, under section 999(a)(3), of countries that require cooperation with an international boycott. This list may not be all-inclusive.

Column (2).—For each boycott operation enter all purchases that are attributable to that operation and are made from boycotting countries.

Column (3).—For each boycott operation enter the sales that are attributable to that operation and are made to or from boycotting countries.

Column (4).—For each boycott operation enter the total payroll that is attributable to that operation and is paid or accrued for services performed in boycotting countries.

Line 1.—Add columns (2), (3), and (4). The numerator of your international boycott factor includes all of the following.

- (i) Purchases you made from boycotting countries.
- (ii) Sales you made to or from boycotting countries.
- (iii) Payroll you paid or accrued for services performed in boycotting countries.

Do not include amounts attributable to operations for which you rebutted the presumption of cooperating with or participating in the boycott.

Line 2.—The denominator of your international boycott factor reflects all your purchases, sales, and payroll in or related to all countries other than the United States. If applicable, the denominator also reflects these items for your controlled groups, partnerships, and trusts. Include here the amounts that are attributable to operations for which you rebutted the presumption of cooperating with or participating in the boycott.

Line 3.—Enter the international boycott factor from line 3 of this form on the appropriate line of Schedule C (Form 5713) as follows:

If you reduce your foreign tax credit (section 908(a)), enter the international boycott factor on line 2a(2) of Schedule C.

If you are denied a tax deferral on subpart F income (section 952(a)(3)), enter the international boycott factor on line 3a(4) of Schedule C.

If you are denied a tax deferral on IC-DISC income (section 995(b)(1)(F)), enter the international boycott factor on line 4a(2) of Schedule C.

If you are denied an exemption of foreign trade income of a FSC (section 927(e)(2)), enter the international boycott factor on line 5a(2) of Schedule C.

**SCHEDULE B
(Form 5713)**

(Rev. January 1986)

Department of the Treasury
Internal Revenue Service

**Specifically Attributable Taxes
and Income (Section 999(c)(2))**

(To be completed only by persons not computing loss of tax benefits
by the international boycott factor on Schedule A (Form 5713).)

► **Attach to Form 5713.** ► **See Instructions on back.**

OMB No. 1545-0216

Expires 10-31-88

Name _____	Taxpayer identifying number _____
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Name of country being boycotted ☐ Israel ☐ Other (identify) ► _____

Specifically Attributable Taxes and Income by Operation (Use a separate line for each operation.)

Name of country	Principal business activity		Foreign tax credit	Subpart F income	IC-DISC income	FSC income
(1)	Code	Description	Foreign taxes attributable to boycott operations	Prorated share of international boycott income	Taxable income attributable to boycott operations	Taxable income attributable to boycott operations
	(2)	(3)	(4)	(5)	(6)	(7)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15 Total						

If you are involved in more than one international boycott, use a separate Schedule B (Form 5713) to compute the specifically attributable taxes and income for each boycott.

General Instructions

(References are to the Internal Revenue Code.)

A. Purpose.—Complete Schedule B (Form 5713) if you participated in or cooperated with an international boycott and if you figure the loss of tax benefits by specifically attributing taxes and income. If you do not specifically attribute taxes and income for this purpose, you must compute the international boycott factor on Schedule A (Form 5713).

B. Who Must File.—Anyone who participates in or cooperates with an international boycott must file either this form or Schedule A (Form 5713) to figure the loss of tax benefits. One act of participation or cooperation creates the presumption that you participate in or cooperate with the boycott unless you rebut the presumption as explained in instruction C. The presumption applies to all your operations, and those of each member of any controlled groups (defined in section 993(a)(3)) to which you belong, in each country that helps carry out the boycott.

Certain shareholders.—IC-DISC benefits, certain FSC benefits, the "deemed paid" tax credit under section 902, and the deferral of subpart F income are lost at the shareholder level. Shareholders in an IC-DISC, certain FSCs or a foreign corporation must report their prorated share of the tax benefits denied. The denial of these benefits are discussed in the specific instructions for columns (4) through (7).

C. Boycott Operations.—All your operations in a boycotting country are considered to be boycott operations, unless you rebut the presumption of participation in or cooperation with the boycott, as explained below. In addition, your operations that are not in a boycotting country are boycott operations if they are connected to your participation in or cooperation with the boycott.

You can rebut the presumption of participation in or cooperation with a boycott for a particular operation by demonstrating that operation is separate

from any participation in or cooperation with an international boycott. The presumption applies only to operations in countries that carry out the boycott, so you do not need to rebut the presumption for operations that are related to those countries, but that take place outside them.

Specific Instructions

File Schedule B (Form 5713) for the period covered by your income tax return. Report only your own taxes and income; do not include other members of any controlled groups to which you belong.

Column (1).—For each boycott operation enter the name of the country to which your international boycott operation relates. For example, if you have an operation in Country Z, which is not a boycotting country, and the operation relates to Country X, which is a boycotting country, enter the name of Country X. The Secretary maintains a list, under section 999(a)(3), of countries that require cooperation with an international boycott, but this list may not be all-inclusive.

Column (2).—For each boycott operation enter the principal business activity code. Page 4 of the Instructions for Form 5713 lists the codes.

Column (3).—For each boycott operation briefly describe the principal business activity.

IC-DISCs.—For each boycott operation enter the product code and description in parentheses. The Instructions for Schedule N of Form 1120-IC-DISC, list the codes.

Column (4).—For each boycott operation enter the foreign taxes that are paid, accrued, or deemed paid and are attributable to the boycott operation. These taxes are not eligible for the foreign tax credit. Omit foreign taxes otherwise disallowed under sections 901-907, 911, or 6038. For more information see Part N of the Treasury Department's International Boycott Guidelines.

Enter the column (4) total on line 2b, Schedule C (Form 5713).

Column (5).—For each boycott operation enter your prorated share of the controlled foreign corporation's income that is attributable to the boycott operation. (This includes your share of the section 923(a)(2) non-exempt income of a FSC.) This amount is not eligible for tax deferral. Omit the foreign corporation's income attributable to earnings and profits that are included in gross income under section 951 (except by reason of section 952(a)(3)). Also omit amounts excluded from subpart F income by section 952(b). In figuring the amount to enter in column (5), you are allowed a reasonable amount for deductions (including foreign taxes) allocable to that income.

Enter the column (5) total on line 3b, Schedule C (Form 5713).

Column (6).—An IC-DISC's taxable income attributable to boycott operations is not eligible for deferral. If you are a shareholder in an IC-DISC, follow these steps for each boycott operation and enter the result in column (6): Add the amount deemed distributed for the tax year under subparagraphs (A), (B), (C), (D), and (E) of section 995(b)(1). Subtract this total from the IC-DISC's taxable income attributable to the boycott operation for the tax year, before reduction for any distributions. If you are a corporation, prorate your share of the remainder and multiply by 16/17. If you are not a corporation, prorate your share of the remainder. Enter the result in column (6). Enter the column (6) total on line 4b, Schedule C (Form 5713).

Column (7).—A FSC's taxable income attributable to boycott participation or cooperation is not eligible for exemption from income tax. Enter in column (7) the amount of taxable income attributable to foreign trade income of a FSC that would have been exempt if there had not been boycott participation or cooperation for each boycott operation.

Enter the column (7) total on line 5b, Schedule C (Form 5713).

**SCHEDULE C
(Form 5713)**

(Rev. January 1986)
Department of the Treasury
Internal Revenue Service

Tax Effect of the International Boycott Provisions

▶ Attach to Form 5713.

▶ For Paperwork Reduction Act Notice, see page 1 of Instructions for Form 5713.

OMB No. 1545-0216
Expires 10-31-88

Name _____ Taxpayer identifying number _____

1 Method used in computing loss of tax benefits under sections 908(a), 952(a)(3), 995(b)(1)(F)(ii) and 927(e)(2) (check one)

- a** International boycott factor from Schedule A (Form 5713). See items 2a, 3a, 4a, and 5a below. ▶ ☐
- b** Identification of specifically attributable taxes and income from Schedule B (Form 5713). See items 2b, 3b, 4b, and 5b below. ▶ ☐

2 Reduction of foreign tax credit (section 908(a))

- a** International boycott factor. Complete if you checked box 1(a) above and answered "Yes" to foreign tax credit question on line 7d, Form 5713—
- (1)** Foreign tax credit before adjustment (line 6, Part III, Schedule B, Form 1118 (Rev. Oct. 1985) (corporations); or line 5, Part IV, Form 1116 (1985) (individuals))

(2) International boycott factor (from Schedule A (Form 5713), line 3)

(3) Reduction of foreign tax credit (multiply line 2a(1) by line 2a(2)). Enter here and on line 7, Part III, Schedule B, Form 1118 (corporations); enter here and on line 6, Part IV, Form 1116 (individuals)

(4) Adjusted foreign tax credit (subtract line 2a(3) from line 2a(1))

- b** Specifically identifying income and taxes. Complete if you checked box 1b above and answered "Yes" to foreign tax credit question on line 7d, Form 5713. Enter the amount from line 15, column (4), Schedule B (Form 5713)

Enter the appropriate part of this amount on line 3, Part II, Schedule B, of all applicable Form(s) 1118 (corporations); or on line 4, Part III, of all applicable Form(s) 1116 (individuals)

3 Denial of deferral under subpart F (section 952(a)(3)).

- a** International boycott factor. Complete if you checked box 1a above and answered "Yes" to controlled foreign corporation question on line 7b, Form 5713—

(1) Prorated share of total income of controlled foreign corporations (See instructions)

(2) Prorated share of income attributable to earnings and profits of controlled foreign corporations included in income under sections 951(a)(1)(A)(ii), 951(a)(1)(A)(iii), 951(a)(1)(B), 952(a)(1), 952(a)(2), 952(a)(4), and 952(b)

(3) Subtract line 3a(2) from line 3a(1)

(4) International boycott factor (from Schedule A (Form 5713), line 3)

(5) Prorated share of subpart F international boycott income (multiply line 3a(3) by line 3a(4)). Enter here and on line 5, Worksheet A, contained in the Instructions for Form 5471

- b** Specifically identifying taxes and income. Complete if you checked box 1b above and answered "Yes" to controlled foreign corporation question on line 7b, Form 5713. Enter the amount from line 15, column (5), Schedule B (Form 5713). Also enter this amount on line 5, Worksheet A, contained in the Instructions for Form 5471

4 Denial of IC-DISC benefits (section 995(b)(1)(F)(ii))

- a** International boycott factor. Complete if you checked box 1a above and answered "Yes" to IC-DISC question on line 7c, Form 5713—

(1) Prorated share of section 995(b)(1)(F)(i) amount (see instructions)

(2) International boycott factor (from Schedule A (Form 5713), line 3)

(3) Prorated share of IC-DISC international boycott income (multiply line 4a(1) by line 4a(2)) (See instructions)

- b** Specifically identifying taxes and income. Complete if you checked box 1b above and answered "Yes" to IC-DISC question on line 7c, Form 5713. Enter amount from line 15, column (6), Schedule B (Form 5713). Also enter this amount on the appropriate line of Schedule J, Form 1120-IC-DISC

5 Denial of exemption of foreign trade income (section 927(e)(2))

- a** International boycott factor. Complete if you checked box 1a above and answered "Yes" to FSC question on line 7i, Form 5713.
- (1) Add amount from columns (a) and (b), line 10, Schedule B (Form 1120-FSC)
- (2) International boycott factor (from Schedule A (Form 5713), line 3)
- (3) Exempt foreign trade income of a FSC attributable to international boycott operations (multiply line 5a(1) by line 5a(2). Enter here and on line 1, Schedule F (Form 1120-FSC)
- b** Specifically attributable taxes and income. Complete if you checked box 1b above and answered "Yes" to question on line 7i, Form 5713. Enter amount from line 15, column (7), Schedule B (Form 5713). Also enter this amount on line 1, Schedule F (Form 1120-FSC)

Instructions

(Section references are to the Internal Revenue Code.)

You do not need to complete Schedule C (Form 5713) for a partnership or an IC-DISC. You must complete it, however, if you are a partner or an IC-DISC shareholder.

Controlled Groups.—Unless a controlled group (described in section 993(a)(3)) files a consolidated return, each member may choose independently either to apply the international boycott factor under section 999(c)(1) or to identify specifically attributable taxes and income under section 999(c)(2). Each member must consistently use a single method to figure the loss of tax benefits.

For example, a member that chooses to use the international boycott factor must apply it to determine its loss of the section 902 indirect foreign tax credit on a dividend that another member of the controlled group paid to it, even if the

other member determines its own loss of tax benefits by identifying specifically attributable taxes and income.

Thus, a person who applies the international boycott factor to one operation must apply the factor to all that tax year's operations under section 908(a), 952(a)(3), 995(b)(1)(F)(ii) or 927(e)(2).

A person who identifies specifically attributable taxes and income under section 999(c)(2) must use that method for all that tax year's operations under section 908(a), 927(e)(2), 952(a)(3), or 995(b)(1)(F).

An IC-DISC whose tax year differs from the common taxable year of the controlled group of which it is a member does not need to amend its return to show on Schedule J (Form 1120-IC-DISC) the amount of IC-DISC benefits lost because of boycott participation. Since the IC-DISC benefits are lost at the shareholder level, the shareholder must include in

income the prorated share of income attributable to boycott operations shown on line 4a(3).

Line 3a(1).—Enter your share of the income of the controlled foreign corporation on line 3a(1).

Non-exempt foreign trade income of a foreign sales corporation (FSC) that was computed without regard to the administrative pricing rules is subject to the subpart F rules. Enter your share of these types of income on line 3a(1).

Line 4a(1).—Prorated share of section 995(b)(1)(F)(i) amount.—A noncorporate shareholder enters its share of the earnings and profits of the IC-DISC reduced by its share of the distributions under sections 995(b)(1)(A), (B), (C), (D), and (E) on line 4a(1). A corporate shareholder takes its share of the earnings and profits of the IC-DISC and reduces it by the distributions under sections 995(b)(1)(A), (B), (C), (D), and (E). It multiplies this amount by 16/17 and enters the result on line 4a(1).



Instructions for Form 5713

(Revised January 1986)

International Boycott Report

(Section references are to the Internal Revenue Code.)

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Reporting Operations, Boycott Requests, and Boycott Compliance.—Generally, persons having operations in or related to boycotting countries are required to report those operations, the receipt of boycott requests, and boycott agreements on Form 5713.

Tax Benefits Which May Be Lost.—If there is an agreement to participate in or cooperate with an international boycott, taxpayers may lose a portion of the foreign tax credit (section 908(a)), deferral of taxation of earnings of controlled foreign corporations (section 952(a)(3)); deferral of taxation of IC-DISC income (section 995(b)(1)(F)(ii)); and exemption of foreign trade income of a FSC (section 927(e)(2)).

The loss of tax benefits must be reported on either Schedule A or B (Form 5713), on Schedule C (Form 5713) and on Form 1116 (individuals), Form 1118 (corporations), Form 5471, Form 1120-IC-DISC or Form 1120-FSC.

Foreign Sales Corporations (FSCs) and Interest-Charge Domestic International Sales Corporations (IC-DISCs).—Foreign Sales Corporations and Interest-Charge Domestic International Sales Corporations were added to the Code by the Tax Reform Act of 1984. These entities are subject to the international boycott provisions of section 999.

Foreign sales corporations that compute their foreign trade gross income by using the administrative pricing rules of section 923(a)(3) will lose all or a portion of their exemption if they participate in or cooperate with an international boycott. FSCs that do not use these pricing rules may lose all or a portion of their exemption if they participate in or cooperate with an international boycott. Additionally, the amount of nonexempt foreign trade income computed without regard to the administrative pricing rules is subject to the subpart F rules of sections 951-964. Accordingly, for FSCs that have this type of income and that are controlled foreign corporations, U.S. shareholders of the FSC will be treated the same as any other U.S. shareholder in a controlled foreign corporation. The benefits of deferral will be lost at the shareholder level.

IC-DISCs are, generally, treated in the same manner that Domestic International Sales Corporations were treated. Thus, if an IC-DISC participates in or cooperates with an international boycott, IC-DISC benefits will be lost at the shareholder level.

General Instructions

A. Who Must File.—Except as provided in Instruction F, you must file Form 5713 if you

- 1 have operations, or
- 2 are a member of a controlled group (as defined in section 993(a)(3)), a member of which has operations, or
- 3 are a United States shareholder (within the meaning of section 951(b)) of a foreign corporation that has operations, but only if you own (within the meaning of section 958(a)) stock of that foreign corporation, or

- 4 are a partner in a partnership that has operations; or
- 5 are treated under section 671 as the owner of a trust that has operations

in or related to a boycotting country or with the government, a company, or a national of a boycotting country. However, if you are not a United States person (as defined below), you need not file Form 5713 unless you claim the benefits of the foreign tax credit under section 901, own stock of an IC-DISC or are a FSC that has exempt foreign trade income.

U.S. Person.—A U.S. person includes a citizen or resident of the United States; a domestic partnership, a domestic corporation; and any estate or trust (other than a foreign estate or foreign trust) (See section 7701(a)(30)).

B. When and Where to File.—File Form 5713 (including Schedules A, B, and C, if applicable) in duplicate when your tax return is due, including extensions. Send one copy to the Internal Revenue Service Center, Philadelphia, PA 19255, and attach the other copy to your income tax return.

C. Boycotting Country.—A boycotting country is any country which is on the list maintained by the Secretary of the Treasury under section 999(a)(3). The list currently (as of October 1, 1985) includes Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, Yemen Arab Republic, and Peoples Democratic Republic of Yemen.

Also, any other country in which you (or a member of the controlled group of which you are a member) have operations and which you know or have reason to know requires any person to participate in or cooperate with an international boycott other than a boycott referred to in section 999(b)(4)(A), (B), or (C) (see instruction F) is a boycotting country.

D. Definition of "Operations."—The term "operations" encompasses all forms of business or commercial activities and transactions (or parts of transactions), whether or not productive of income, including, but not limited to: selling, purchasing, leasing, licensing, banking, financing, and similar activities; extracting, processing, manufacturing; producing, constructing, transporting, performing activities ancillary to the foregoing (e.g., contract negotiating, advertising, site selecting, etc.), and performing services, whether or not ancillary to the foregoing.

You are considered to have operations "in a boycotting country" if you have an operation that is carried on in whole or in part in a boycotting country.

You are considered to have operations "with the government, a company, or a national of a boycotting country" if you have an operation that is carried on outside a boycotting country either for or with the government, a company, or a national of a boycotting country.

You are considered to have operations "related to a boycotting country" if you have an operation that is carried on outside a boycotting country for the government, a company, or a national of a non-boycotting country if you know or have reason to know that specific goods or services produced by the operation are intended for use in a boycotting country, or for use by or for the benefit of the government, a company, or a national of a boycotting country, or for use in forwarding or transporting to a boycotting country.

E. Boycott Requests.—A boycott request is any request to enter into an agreement that would constitute participation in or cooperation with an international boycott.

F. Special Filing Situations and Waivers Regarding Form 5713.—

1 Controlled Groups.—If you are a member of a controlled group of corporations, you do not have to file Form 5713 if you joined in the filing of a consolidated income tax return and Form 5713 was filed on behalf of all members of the controlled group who joined in the filing of that return. If the consolidated return is not filed on your behalf, you must separately file Form 5713.

Also, you, as a member of a controlled group, do not have to file Form 5713 if, for your tax year, all four of the following conditions are met: (a) you have no operations in or related to a boycotting country (or with the government, a company, or a national of a boycotting country), and owned no stock, directly or indirectly, of any corporation having such operations; (b) you received no boycott request and owned no stock, directly or indirectly, of any corporation receiving such requests; (c) you are not entitled to (or you forfeit) any benefits of deferral, IC-DISC, FSC, or the foreign tax credit; and, (d) you attach to your income tax return a certificate signed by a person authorized to sign the tax return of the common parent of your group stating that Form 5713 was filed on your behalf.

2 Partners.—Generally, if you are a partner in a partnership that has operations in a boycotting country, you are required to file Form 5713. However, if the partnership did not participate in or cooperate with an international boycott and filed Form 5713 with its Form 1065, then you need not file Form 5713 if you have no operations in or related to a boycotting country, or with the government, a company, or a national of a boycotting country other than the operations that are reported on the Form 5713 filed by the partnership.

3 U.S. Sanctioned Boycotts.—Section 999(b)(4)(A) permits you to meet the requirements imposed by a foreign country with respect to an international boycott if United States law or regulations, or an Executive Order, sanctions participation in or cooperation with that international boycott. You need not report operations that fall within this exception.

4 Prohibition on Importation and Exportation.—Although you may agree to comply with prohibitions on exportation or importation described in section 999(b)(4)(B) and section 999(b)(4)(C) without incurring tax sanctions, you must report the operations under such agreements on Form 5713.

5 Unsolicited Tender Invitations.—If you receive an unsolicited tender invitation which contains a request to participate in or cooperate with an international boycott, you do not have to report the request unless you respond to the invitation.

6 United States Subsidiary or Sister Corporation.—If you are required to file Form 5713 and you are a subsidiary or sister corporation of a foreign corporation that is not required to file Form 5713, you do not have to report the operations, boycott requests, and boycott participation or cooperation of that foreign corporation if you do not claim, or if you forfeit, the benefits of deferral, IC-DISC, FSC and the foreign tax credit attributable to: (a) operations related to boycotting countries in connection with which there was participation in or cooperation with an international boycott, and (b) operations in boycotting countries which you cannot clearly demonstrate are clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

If the foregoing conditions are satisfied, and the only reason you are required to file Form 5713 is that your foreign sister or foreign parent has reportable operations in or related to a boycotting country (or with the government, a company, or a national of a boycotting country) then you need not file Form 5713.

This waiver does not relieve you of your obligation to report the operations, boycott requests, and boycott participation or cooperation of yourself, of United States members of your controlled group, and of foreign corporations of which you are a U.S. shareholder. If you are required to report on behalf of a foreign corporation of which you are a U.S. shareholder, you must report all operations, boycott requests, and boycott participation or cooperation of that foreign corporation whether or not they are effectively connected with the conduct of a trade of business in the United States.

7. Foreign Corporations That Are Required to Report Because of U.S. Branch Operations.—If you are a foreign corporation engaged in operations in the U.S. through a branch and are required to file Form 5713, you do not have to report the operations, boycott requests, and boycott participation or cooperation of your non-U.S. parent, subsidiaries, or sister corporations and your own operations, boycott requests, and boycott participation or cooperation that do not relate to your U.S. branch if you do not claim, or if you forfeit, the benefits of deferral, DISC, FSC, and the foreign tax credit attributable to (a) operations related to boycotting countries in connection with which there was participation in or cooperation with an international boycott, and (b) operations in boycotting countries which you cannot clearly demonstrate are clearly separate and identifiable from operations in connection with which there was participation in or cooperation with an international boycott.

If the foregoing conditions are satisfied, and neither your U.S. branch nor any U.S. member of your controlled group has operations in or related to a boycotting country (or with the government, a company, or a national of a boycotting country), then you need not file Form 5713.

This waiver does not relieve you of your obligation to report all operations, boycott requests, and boycott participation or cooperation of your U.S. branch and of all U.S. members of each controlled group of which you are a member.

Moreover, all the operations, boycott requests, and boycott participation or cooperation of your U.S. branch must be reported even if they relate to the branch's operations that are not effectively connected with a U.S. trade or business. Additionally, if you or any member of a controlled group of which you are a member engages in operations in the United States directly rather than through the U.S. branch, and those operations are also operations in or related to a boycotting country, or with the government, a company, or national of a boycotting country, then you must report those operations, as well as all boycott requests and boycott participation or cooperation relating to those operations.

G. International Boycott Factor and Specifically Attributable Taxes and Income.—If there is participation in or cooperation with an international boycott, you must compute the loss of tax benefits. You may either use the international boycott factor, or you may determine the taxes and income specifically attributable to boycott operations.

If you compute the loss of tax benefits by using the international boycott factor, complete Schedules A and C (Form 5713). If you determine taxes and income specifically attributable to boycott operations, complete Schedules B and C (Form 5713).

Schedules A, B, and C (Form 5713) need not be filed if there was no participation in or cooperation with an international boycott.

IC-DISCs and partnerships need not complete Schedule C. However, they must complete parts of both Schedules A and B, unless all

shareholders, or all partners, compute the loss of their tax benefits using the boycott factor exclusively, or the specifically identifiable taxes and income method exclusively. In such cases, the IC-DISC and the partnership need complete only parts of Schedule A or parts of Schedule B.

H. Penalties.—Willful Failure to Report.—The willful failure to file Form 5713 may result in fines of \$25,000, imprisonment for not more than one year, or both.

Specific Instructions

Common Taxable Year of Controlled Group.—The taxable year for a controlled group is the same as the common taxable year (from line 4b(3)).

1. Individuals.—Enter your adjusted gross income (e.g., for 1985, line 32, Form 1040).

2c. Partnerships and Corporations.—Enter your principal business activity code number and description. Page 4 of the instructions provides the code list of business activities for corporations and partnerships. Using this list, enter the code number for the specific industry group from which the largest percentage of "total receipts" was derived. On Forms 1120, 1120S, and 1120F, total receipts means gross receipts (Forms 1120 and 1120S, page 1, line 1a, and Form 1120F, page 3, line 1a) plus all other income (Forms 1120 and 1120S, page 1, lines 4 through 10; and Form 1120F, page 3, lines 4 through 10). For IC-DISCs, "total receipts" means all income (page 1, line 1, Form 1120-IC-DISC). See the Instructions for Form 1120-IC-DISC for business activities of an IC-DISC. For partnerships, "total receipts" on Form 1065 means gross receipts (page 1, line 1a) plus all other income (page 1, lines 4 through 10). For FSCs, enter total of columns (a) and (b), line 6, Schedule B (Form 1120-FSC).

2d. IC-DISCs.—Enter the major product code number and description from Schedule N, Form 1120-IC-DISC, page 5. This is the code number for the major product or service (as measured by export gross receipts) sold or provided by the IC-DISC.

4b. Common Taxable Year Election.—In general, the common taxable year of the controlled group is the taxable year of the common parent. However, the members of the controlled group may elect the taxable year of any member of the group as the common taxable year. This election is made by entering the name, taxable year and employer identification number of the designated corporation on line 4b.

All members of a controlled group must consent, in writing, to the common taxable year election. A common parent may consent to the common taxable year election on behalf of all members of the controlled group that joined with the common parent in filing a consolidated return. Foreign corporations which are members of a controlled group need not sign the consent if they are not required to report. However, if the foreign corporation subsequently becomes liable to report, then it is bound by the common taxable year election previously made by the group. A copy of the consent must be attached to each member's Form 5713 filed for the first taxable year of such member to which the common taxable year election applies. In the event no common parent exists and no consensus is reached by the members of the controlled group, the common taxable year of the group will be the taxable year of the member of the controlled group whose taxable year ends in the latest month of the calendar year. The taxable year election is a binding election and can be changed only with the approval of the Secretary of the Treasury.

4c(1). Corporations.—Enter the amount of total assets (e.g., for 1985 forms, enter)

- (a) Form 1120 Schedule L, line 14, column (d),
- (b) Form 1120-IC-DISC Schedule L, line 3, column (b),
- (c) Form 1120F Schedule L, line 14, column (d);
- (d) Form 1120S Schedule L, line 14, column (d),
- (e) Form 1120L From Form 1120L,
- (f) Form 1120M Annual Statement, page 11, line 22 (sum of columns 1 and 2);
- (g) Form 1120-FSC Schedule L, line 14, column (d).

4c(2). Corporations.—Enter the amount of taxable income before net operating loss and special deductions (e.g., for 1985 forms, enter):

- (a) Form 1120 Page 1, line 28;
- (b) Form 1120-IC-DISC Page 1, line 5 (Taxable income before net operating loss deduction and dividends-received deduction);
- (c) Form 1120F Page 3, line 29;
- (d) Form 1120S Page 1, line 28 (Taxable income);
- (e) Form 1120L From Form 1120L;
- (f) Form 1120M Page 1, line 4 (Taxable income before unused loss deduction);
- (g) Form 1120-FSC Schedule B, Part II, line 18.

6.—Enter the applicable amounts as follows

- (a) Foreign tax credit before adjustment (e.g., line 6, Part III, Schedule B, Form 1118 (Rev. 10-85) (corporations)); or line 5, Part IV, Form 1116 (1985) (individuals),
- (b) Pro rata share of total income of controlled foreign corporation (line 20, Schedule C, Form 5471),
- (c) Pro rata share of section 995(b)(1)(F)(i) amount (pro rata share of line 8, Part I, Schedule J, Form 1120-IC-DISC)
- (d) Exempt foreign trade income of a FSC. Enter total of columns (a) and (b), line 10, Schedule B (Form 1120-FSC).

Questions 7 through 13.

Filers Who Are Not Members of a Controlled Group.—Your answers to questions 7-13 on

Form 5713 must reflect your operations, boycott requests and boycott participation or cooperation for your tax year. In addition, if you are

- (a) a United States shareholder of a foreign corporation; or
- (b) a partner in a partnership; or
- (c) treated under section 671 as the owner of a trust,

then your answers to questions 7-13 must also reflect the operations in or related to boycotting countries (or with the government, a company, or a national of a boycotting country), boycott requests, and boycott participation or cooperation of the foreign corporation, partnership, or trust.

When you report on behalf of a foreign corporation as a United States shareholder, report the foreign corporation's operations, boycott requests, and boycott participation or cooperation for the foreign corporation's tax year that ends with or within your tax year.

When you report on behalf of a partnership as a partner, report the partnership's operations, boycott requests, and boycott participation or cooperation for the partnership's tax year that ends with or within your tax year.

